

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES D. LYNCH,

Plaintiff,

-against-

MECHALY HAIM, P.V. HOLDING CORP.,
MICHAEL S. COLE, and ELRAC, INC.,

Defendants.

ECF CASE

DOCKET: 7:08-CV-01259-CLB

JUDGE: CHARLES L.
BRIEANT

STATEMENT EXPLAINING DELAY IN ELECTRONIC COURT FILING

Defendants Michael S. Cole and Elrac, Inc. began attempts to file their Notice of Motion and all supporting documents at approximately 3:00 p.m. on April 25, 2008. Efforts continued until approximately 4:30 pm. at which time, believing the Court's ECF System was down, we appeared at the US District Court for the Southern District of New York in White Plains in order to file the above referenced pleadings in hard copy in order to meet the Court's deadline of April 25, 2008.

We were advised by the Clerk of the Court that we were required to file these pleadings via ECF, as the Court's ECF System was not down. Defendants were prevented from filing the enclosed pleadings before the Court's deadline of April 25, 2008 due to continued computer issues at Goldberg Segalla's White Plains office. As the issue which prevented the filing on April 25, 2008 has now been resolved we are herewith filing the above referenced pleadings as prescribed by the rules of court.

Pursuant to the SDNY's "Guidelines for Electronic Court Filing" and the SDNY's website "Service Alert" we are herewith submitting this Statement explaining the delay in electronic court filing.

Respectfully submitted,

/s/ Kevin Burns, Esq.

Kevin Burns, Esq. (KB-9940)
GOLDBERG SEGALLA LLP

**Attorneys for Defendants
MICHAEL S. COLE and
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